

Protection of the Child's Rights: An Analysis

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Abstract – There are certain groups of human beings which are either by nature or because of deep rooted custom are weak and vulnerable. They include a child, women, disabled persons, aged person or person belonging to a particular race. In these groups a child comes at the first place. The condition of majority of children is far from satisfactory. From statistical point of view, 21% (about 2 million) of all child deaths under 5 years of age in India. About thirty one out of one thousand children die under one year of age in our country per year.

Elaborate legal provisions have been made to protect child's right in India. There were same laws before independence which were enacted to prevent child marriage and child labour. However, after independence, special attention has been laid for all corner development of the child. The Constitution made specific provisions for child development. Now, Article 21-A has been inserted in it to declare primary education as a fundamental right upto 14 year of age.

Despite several legal protections to the rights of children, abuse of their right is on the rise. The National Crime Records Bureau has in its Report an crimes against Children has recorded that in 2017, the maximum number of cases of crime against children involved kidnapping and abduction. International community has also been interested in the protection of child's right. The United Nations has also accelerated the progress of the child. In its various Conventions, the International body casts a duty on every state to protect child's rights.

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There are certain groups of human beings which are either by nature or because of deep rooted custom are weak and vulnerable. Such as a child, women, disabled persons, aged persons or persons belonging to a particular race. In these groups a child comes at the first place. Keeping in mind the importance of Children, William Worth has said, "Child is the father of a man." The condition of majority of children is far from satisfactory. They are badly affected by malnutrition, bad sanitary conditions, health care and several other problems. About one-fifth of the world's children live in India but their condition are even worse than those in sub-Saharan Africa on many social development indicators.

From statistical point of view, 21% (about 2 million) of all child deaths under 5-years of age in India. In our country one out of five children dies of pneumonia, which is highest in the world. 4 million children die within a month of being born, that is 25% of total neo-natal deaths in the world. 43% (8.3 million) of new borns with low weight in the world belong to India. 35% (about 5.5 million) of world's underweight children belong to India. India is also on the top in maternal deaths in the world with 23% (about 1,17,000), and 50% of child population in India defecate in the open. The infant mortality rate is about three percent in India. It means about thirty out

of one thousand children die under one year of age in our country per year.

A state wise analysis of child labour in the cottonseed industry shows that from 2001 to 2010, the overall child labour rate in Gujarat, one of the richest states in India, has risen from 3.8 percent to 7.8 percent. On the other hand the child labour rate has declined from 10.8 percent to 4.7 percent in Uttar Pradesh. What makes this comparison even more compelling is that compared to Andhra Pradesh, Gujarat has was much higher per capita income.

In India, legal protection to development of child has been a matter of concern even before independence. In British regime, there were erected some important laws which aimed for better development of child. Some of them are the Guardians & wards Act, 1890, Child Marriage Restraint Act, 1929 and the children (Pledging of Labour) Act, 1933. The Guardians and Wards Act, 1890 was enacted to appoint guardian of minors to have their care. It lays down the complete procedure for it. The object of this Act is to protect the development of children without parents or whose parents are unable to take care of them.

The Child Marriage Restraint Act, 1929 was enacted to prohibit marriages of children. The Act defines child as a person who, if a male has not completed twenty one years of age, and if female eighteen years. The Act prescribes adequate penalties for solemnizing child marriages. Marriages below major age definitely affect development of child. However, the implementation of this Act is effective to a small extent due to lack of will power in the citizens of country. This Act has now been replaced by prohibition of Child Marriage Act, 2006. Another Act which was evicted during British Rule is the Children (Pledging of Labour Act, 1933). This Act prohibits pledging of labour of the children.

In India, legal efforts for Child development have gained momentum after independence. The Constitution of India, which is the Supreme Law of land, makes elaborate provisions for this purpose. It casts a duty upon the State to provide free and compulsory education to children upto 14 years of age. The 86th amendment of the Constitution, through Article 21- A, inserted right to education as a fundamental rights. Further the Right to Education (RTE) Act is also a step forward to provide elementary education to all Children. Even private school are under an obligation to reserve twenty five percent seats for poor students. The Directive Principles of State Policy of the State also casts an obligation upon the State to provide free and compulsory education to all children upto 14 years of age. There is another provision in the Constitution i.e. Article 24, which provides that no child below the age of fourteen years shall be employed in any factory or mine or engaged in any other hazardous employment. The Parliament has also enacted the Child Labour (Prohibition & Regulation) Act, 1986 to prevent children from labour.

There are some other important laws which have been enacted for better protection of rights of children. They include the Juvenile Justice Act, 2000 and the Commission for Protection of Child Rights Act, 2005. The later makes provisions to constitute a National Commission for Protection of Child Rights and State Commissions for Protection of Child Rights. The main functions of these commissions are to protect child rights and recommend measures for better child development.

The National Crime Records Buredes (NCRB) has released its Report on Crimes against children in 2018. It records that in 2017, the maximum number of cases of crime against children involved kidnapping and abduction (42.0%) followed by under the Protection of Children for Sexual Offences (POSCO) Act, 2012 (25.3%). This trend continued in 2018. with 44.2% and 28% respectively. Due to strict judicial attitude the convction rate for posco has increased

The Supreme Court of India has always been a strong supporter of children's rights. In many cases it

has laid down various guidelines for this purpose. In M.C. Mehta V. State of Tamil Nadu. The Supreme Court has directed the Tamil Nadu government not to employ children in hazardous works. In Mohini Jain and Unnikrishnan cases, the Court declared education as a fundamental right of children upto fourteen years of age. There are many other cases where the Supreme Court has emphasized the need for better child development.

On account of extreme economic distress, families will likely resort to negative coping mechanisms leading to an increase of child labour, trafficking, pushed on to the streets or railway stations. More children may undertake unsafe migration; and also, current situation may lead to an increase in numbers of children entering institutions or in contact with the law.

International community is also very cautious towards child development ever since. However, the establishment of the United Nation has accelerated the proceeds of child care. The United Nations, through Article 25 (2) of Universal Declaration of Human Rights, proclaimed that childhood is entitled to special care and assistance. Further, the General Assembly adopted Declaration of the Rights of the Child, on Nov. 20, 1959. It is the object of the international community that the child should grow up in a family environment, in an atmosphere of happiness, love and understanding. Although principles were proclaimed for the development of the child, these were not binding on the states. It was, therefore realized that a Convention be prepared which should be legally binding on the States.

The Convention on the Rights of the child (CRC) was adopted by the United Nations General Assembly on Nov. 20, 1989. By now about 200 States, including India, have ratified it. The CRC is a complete "Bill of Rights for Children". Some of the rights available under CRC include right to freedom, right to education and right to the enjoyment of highest standard of health. However, the most important drawback of the Convention on the Rights of the Child (CRC) is that it does not lay down any procedure for individual complaints from Children or their representatives. It has merely achieved universal ratification. States have enacted their own laws to achieve the objects of the Convention.

The above discussion makes it clear that law has always been in process of better child development. It has also provided strict punishment in matters of violation of child rights. However, only making of laws are not sufficient. There is a lack of public awareness in our country in this direction. Thousands of children work in shops, factories and other places of labour and even without any restriction. There are only a few

persons who take notice of it and complain. There is a need of collective awareness. Secondly, population control is an effective weapon to combat crimes against children. Keeping in mind for better child development, recently, same states have started to think about population control. In Uttar Pradesh also a bill has been drafted for this purpose. We can look after better our children only if our population is under control. And finally, as we know education is the most effective tool of many problems. There is a need to persuade the general public in this direction. There is a speedy change in this direction; however, much is still to be done. Strong will power is needed for all round child development.

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